

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DONALD ANDREW BESS, JR.,

Petitioner,

v.

LORIE DAVIS, Director,

Texas Department of
Criminal Justice, Correctional
Institutions Division,

Respondent.

Case No. 3:16-CV-1150-S

Capital Case

NOTICE OF APPEAL

Notice is hereby given that Petitioner, Donald Andrew Bess, pursuant to 28 U.S.C. § 1291, 28 U.S.C. § 2253(c), and Federal Rule of Appellate Procedure 4, appeals to the United States Court of Appeals for the Fifth Circuit from the following final orders and judgments of this Court:

1. This Court's final judgment (ECF 66), dated March 23, 2020, against Mr. Bess.
2. This Court's Memorandum Opinion and Order (ECF 65), dated March 23, 2020, denying Mr. Bess's First Amended Petition for Writ of Habeas Corpus by a Prisoner in State Custody Pursuant to 28 U.S.C. § 2254 *et seq.* and Mr. Bess's Motion for Evidentiary Hearing.
3. This Court's Order (ECF 50) dated April 23, 2019 denying Petitioner's Motion for Reconsideration of Denial of Motion to Stay and Abey.

4. This Court's Order (ECF 47) dated March 19, 2019 denying Mr. Bess's Opposed Motion to Stay and Abey Federal Habeas Proceedings to Allow Petitioner to Exhaust Certain Claims in Federal Court and Mr. Bess's Motion for Discovery.

Because Mr. Bess previously proceeded *in forma pauperis* in this Court, he requests to do the same in the United States Court of Appeals for the Fifth Circuit.

On April 20, 2020, Mr. Bess filed a Motion to Alter or Amend Judgment pursuant to Federal Rule of Civil Procedure 59(e). Pursuant to Federal Rule of Appellate Procedure 4(a)(4)(A)(iv), the timely filing of a Rule 59(e) motion prevents the running of the deadline to file a notice of appeal until the district court disposes of the motion. Thus, this "notice becomes effective to appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered." *Id.* at R. 4(a)(4)(B)(i). As permitted under the relevant rules, Mr. Bess reserves the right to file an amended notice of appeal pending the resolution of that motion. *Id.* at R. 4(a)(4)(B)(ii).

Respectfully submitted this 20th day of April, 2020,

JASON D. HAWKINS
Federal Public Defender

/s/ Jeremy Schepers
Jeremy Schepers (24084578)
Supervisor, Capital Habeas Unit
jeremy_schepers@fd.org

/s/ David Currie
David Currie (24084240)
Assistant Federal Public Defender
david_currie@fd.org

Federal Public Defenders Office
Northern District of Texas
525 South Griffin Street, Suite 629
Dallas, Texas 75202
214.767.2746
214.767.2886 facsimile

/s/ Jonathan E. Broun
Jonathan E. Broun
North Carolina Prisoner Legal Services
1110 Wake Forest Road
Raleigh, North Carolina 27611
919.856.2220
919.856.2223 facsimile
North Carolina Bar No. 18108
Jonathan.E.Broun@gmail.com

Certificate of Service

I, David C. Currie, hereby certify that on the 20th day of April, 2020, a copy of the foregoing notice of appeal was delivered via ECF to the Texas Attorney General's Office, attention Erich Dryden.

/s/ David C. Currie

David C. Currie
Assistant Federal Public Defender